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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,150	10/27/2003	Aspy Keki Mehta	2003B107	3010

23455                      7590                      04/03/2006

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EXAMINER

ZEMEL, IRINA SOPHIA

ART UNIT                      PAPER NUMBER

1711

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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20060322

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

See attached communications.

### DETAILED ACTION

The amendment filed on 1-5-2006 and 1-26-2006 de facto canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because of the reasons previously stated by the examiner in the office action dated December 5, 2005.

The applicants arguments filed on January 26, 2006 have been considered but are not found proper or persuasive.

Applicants argue (for the first time in the response dated 1-26-2006) that the restriction requirement issued by the examiner is improper because 1) none of the claims have been cancelled; 2) There has not been any restriction in the case; and 3) that the invention as now claimed was presented in the original claims. None of these arguments are persuasive.

1). – Simply because the applicants kept the same claim numbers does not mean that they have not cancelled the claims directed to the originally presented invention. Amending the claims to present a new invention constitutes de facto cancellation of claims directed to the original invention.

2). - The restriction requirement between the inventions claimed in the originally presented claims and inventions claimed in the amended claims is clearly set forth on page 2 of the office action dated 12-5-2005, and, in addition, the first page of the referenced office action indicated that claims 1-18 are subject to the restriction requirement.

3).- Original claim 15 only provided a limitation to “a particle” without specifying any parameters of the particle. Contrary to the applicants allegation, the examiner did NOT state that a particle was never claimed. The examiner stated that “the claims are now directed to a resin particle with a specified structure (size), that was never presented before for the examination.” As originally presented in claim 15, the particle had no limitations as to either the size of the shape. A dictionary definition of “particle” is a “small piece” which may be a piece of virtually any size or shape, so that original claim 15 did not present significant material limitation to the resin claimed in the base claim 1 (and that was met by the disclosure of the applied references (small pieces of foam used for taking micrographs of the foamed profiles shown in figures 9 and 11)). The particles as claimed in amended claims require specific dimensions and shape that is unrelated to the originally claimed “particle”.

The applicants arguments are, therefore, are not found persuasive.

The restriction requirement, thus, is made FINAL.

Applicants are advised that a proper course of action in response to this office action is one of the following:

1. Filing a Petition to withdraw the restriction requirement; or
2. Filing a divisional application with claims directed to the invention restricted from the originally claimed invention.

Filing any other response/arguments to this office action may not be considered as a *bona fide* attempt to advance the prosecution of this application.

Since Request for Continued Examination filed by applicants on January 5, 2006, although was IMPROPER, appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irina S. Zemel whose telephone number is (571)272-0577. The examiner can normally be reached on Monday-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571)272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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ISZ